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U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

G3

FILE:

Office: KANSAS CITY, MO Date **JUN 29 2004**

IN RE:

Obligor:

Bonded Alien:

IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR: Self-represented

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The voluntary departure bond in this matter was declared breached by the District Director, Kansas City, Missouri, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The record indicates that on December 20, 1999, the obligor posted a \$500.00 bond conditioned for the voluntary departure of the above referenced alien. An order of the immigration judge (IJ) dated December 15, 1999, was issued granting the alien voluntary departure in lieu of removal on or before February 13, 2000. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On November 19, 2001, the BIA dismissed the appeal and granted the alien voluntary departure within 30 days from the date of the order. On February 1, 2002, the district director concluded the bond had been breached. The alien has failed to depart.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The decision dated February 1, 2002 clearly advised the obligor that any appeal must be filed within thirty days. Coupled with three days for mailing the appeal, in this case, should have been filed on or before March 6, 2002. The appeal was dated by counsel on October 24, 2002, and received by ICE on October 29, 2002.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the district director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The district director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.